

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 18025 of 1996

Between:

K.Venu Gopal, Rao S/o. Late Sanyasi Naidu
Driver, R/o. Main Road , Seethammapeta , Srikakulam Dist.

..... PETITIONER

AND

- 1 The Managing Director
Girijan cooperative Corporation Ltd. Visakhapatnam.
- 2 The Divisional Manager
Girijan Cooperative corporation Ltd. Seethammapeta,

Srikakulam District.

- 3 The Branch Manager, Girijan Primary Cooperative marketing
Ltd. Seethammapeta, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the action of respondents in not absorbing the petitioner as driver in the respondents corporation is illegal, Arbitrary and irregular consequently , direct the Respondents to absorb the petitioner as Van Driver in the Respondent's Corporation with all consequential benefits and pass such other order or orders.

Counsel for the Petitioner:MR.D.RAMALINGA SWAMY

Counsel for the Respondents: MR.N.Sridhar Reddy

The Court made the following :

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ORDER:

The writ petition is filed for a direction to the respondents to absorb the petitioner in service in the respondent-corporation as a van driver.

The petitioner contends that initially he was appointed as a lorry cleaner on daily wage of Rs.15/- on 28-10-1991 for executing repairs to the lorry of the 3rd respondent. He thereafter Claims to have been appointed as a driver and continuing as such since 28-10-1991. Initially he worked as a cleaner and then as a driver till 02-08-1996 when the lorry on which he was engaged to work as a driver, had a break down. He also claims that despite his long service, he was not been paid salaries since 06-05-1996. On the basis of the claimed continuous long service, the relief is sought as adverted to above.

The 1st respondent has filed a counter affidavit stating that the 3rd respondent had sought the permission of the answering respondents to engage the petitioner on daily wage basis as a lorry cleaner. No orders were passed on such request of the 3rd respondent. But nevertheless the services of the petitioner were utilized as a driver in respect of a truck on payment of daily wages as and when there was work. The petitioner's claim to be in continuous employment is categorically denied. It is also denied that the petitioner is continuously attended his duties since 1996 but wages were not paid. It is contended that as the petitioner has not been in service he is not entitled for regularization in service. He was not continuous employment and was only engaged as and when exigency of work required, on daily wage basis.

In the light of the above categorical denial of the factual assertions of the petitioner, no case is made out for directing the respondents to absorb the petitioner into service on regular basis.

In the result, the writ petition is dismissed. No costs.

02-11-2004

1 The Managing Director
Girijan cooperative Corporation Ltd. Visakhapatnam.

2 The Divisional Manager
Girijan Cooperative corporation Ltd. Seethammapeta,

Srikakulam District.

3 The Branch Manager,
Girijan Primary Cooperative Marketing Ltd., Seethammapeta,

Srikakulam District.

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